IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14072 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHIVPRESSTHROITSPROPRIETOR - Petitioner(s)

Versus

RAMESHCHANDRAJAMANADASRANA - Respondent(s)

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Appearance :

MR KASHYAP R JOSHI for Petitioner(s) : 1,
MR PH PATHAK for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 04/10/2005

ORAL JUDGMENT

Rule. Learned advocate Shri Pathak waives service of notice of rule on behalf of the respondents.

2. In the present petition, the petitioner has

challenged the legality of the award dated 18.1.2005 passed by the Labour Court, Bharuch. By the impugned award, the reference of the respondent workman was allowed in part and his termination was set aside. He was directed to be reinstated in service with 50 per cent backwages.

3. It is not in dispute that the respondent was terminated with effect from 1.5.92. It is also not in dispute that though an advance notice was issued against such a proposal and the respondent was also paid notice pay, no retrenchment compensation was paid to him. The petitioner does not dispute that from 1990 onwards, the respondent discharged his duties continuously till his termination. The termination of the respondent was therefore without following the procedure provided under section 25-F of the Industrial Disputes Act since retrenchment compensation was not paid to him. The award of the Labour Court in so far as the same directs reinstatement of the respondent is concerned calls for no interference.

4. The respondent himself admitted in his cross-examination that after his termination, he was getting

miscellaneous work which he was doing. He also admitted that he was engaged by one Satyam Printers for some time. Thus there was evidence on record to suggest that the respondent was not totally unemployed during the intervening period. In view of this material, I find that the direction for payment of 50 per cent back-wages requires modification. Therefore, while disposing of the present petition, it is provided that the direction for payment of 50 per cent backwages contained in the award of the Labour Court will be substituted by direction to pay 30 (thirty) per cent back-wages for the intervening period. Subject to the above modification, the award of the Labour Court is upheld. The petition is allowed to the above extent. Rule is made absolute to the above extent with no order as to costs. It is expected that reinstatement will be carried out expeditiously.

(Akil Kureshi, J.)

(vjn)